

# New Hampshire Department of Revenue Administration

## Fiscal Note Quick Guide

12-3018.2

**SB 326-FN-A-LOCAL**, *relative to state reimbursement of towns for upkeep of dams under the Merrimack River Flood Control Compact and the Connecticut River Flood Control Compact.*

Senate Finance Committee

On the whole, this bill:

1. Reimburses certain towns for upkeep of dams under the Merrimack River Flood Control Compact;
2. Reimburses certain towns for upkeep of dams under the Connecticut River Flood Control Compact;
3. Requests that the state of New Hampshire withhold payments from the Commonwealth of Massachusetts until an arrangement for payment of arrears under the Merrimack River and Connecticut River Flood Control Compacts is made; and
4. Requests that the attorney general file suit in federal court for the breach of the Merrimack River and Connecticut River Flood Control Compacts.

Section 1 of this bill states that, “[t]he sum of \$7,500 is appropriated to the towns **listed** under the Merrimack River Flood Control Compact for each year for the purpose of reimbursing such towns for the upkeep of the dams cited under RSA 484:7. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.” (emphasis added)

Section 2 of this bill states that, “[t]he sum of \$7,500 is appropriated to the towns **listed** under the Connecticut River Flood Control Compact for each year for the purpose of reimbursing such towns for the upkeep of the dams cited under RSA 484:1. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.” (emphasis added)

This legislation assumes that there is an actual “list” of towns in each Compact. This is an incorrect assumption. While there are some cities and towns mentioned in each Compact, the number of cities or towns that actually receive Flood Control Reimbursements under these Compacts is far greater than those specifically mentioned in the Compacts. There are more cities and towns receiving these reimbursements than those mentioned in the Compacts by virtue of federal provisions that allow those cities or towns to be included should some of the land within their boundaries be taken for construction of flood control facilities.

For the purposes of this fiscal note, the Department of Revenue Administration assumes that each town will get \$7,500 each in perpetuity. The total cost, however, could be based upon the

eight (8) towns specifically mentioned in the Compact or the eighteen (18) towns that actually received Flood Control Reimbursements in TY2009-2010.

If the assumption above is correct and each town will get \$7,500 each year, the total loss would be between \$60,000 and \$135,000 each fiscal year depending upon whether eight (8) or eighteen (18) towns would receive the appropriations. If the assumption above is incorrect and only \$7,500 in total is appropriated for all the towns, regardless of the number, then the estimated cost would be \$7,500 for the Merrimack River Flood Control Compact towns and \$7,500 for the Connecticut River Flood Control Compact towns. Thus, a total of \$15,000 would be appropriated each year.

This creates a range of possible State expenditures each year of between \$15,000 and \$160,000. This State expenditure would be the local revenue received by the towns. These estimated costs are predicated upon the assumption that there would actually be unappropriated funds to disburse. This legislation would take effect July 1, 2012 and that, in itself, creates some ambiguity concerning the appropriation. This bill should be more specific as to which towns are to receive the reimbursements - only towns specifically mentioned in the Compacts or all those eligible to receive reimbursements under the Compacts.

In the part of the bill regarding cessation of payments to the Commonwealth of Massachusetts, “the director of the department” would determine if the Commonwealth of Massachusetts has satisfied their arrearage. The “director of the department,” however, is not defined in the bill.

Also, it is unclear what payments to Massachusetts have to be identified and stopped. There are no payments to Massachusetts under the Flood Control Compacts.

The language of this bill could be much clearer as to the intent of how much each town is to receive. What effect these payments would have on the distribution and receipt of other flood control disbursements is not known to the Department.

The Department of Revenue Administration assumes this law could be administered by the Governor’s Office and the State Treasury Department without any administrative costs, but suggested that those offices should be consulted to verify this assumption. The Department assumes the Attorney General’s Office might have significant costs associated with this bill and they should be consulted as well to verify this assumption.